



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Pippig et al.

App. No. 09/715,249

Filed: November 17, 2000

For: **Selectable Cell Surface Marker Genes**

Confirmation No. 7928

Art Unit: 1636

Examiner: Maria Marvich

Atty Docket: 4-31192A

REPLY AFTER FINAL UNDER 37 CFR § 1.116

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Final Office Action dated May 20, 2003, please consider the following remarks and enclosed Declaration of Prior Invention Under 37 C.F.R. § 1.131.

It is believed that there is no need for an Extension of Time to enter this reply. If, however, it is determined that a fee for such extension or any other fees deemed necessary to maintain pendency of the application are required, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 19-0134.

REMARKS

Claims 20, 23-27, 29, and 36-72 are pending. Claims 20, 23-26, 36-38, and 42-72 have been allowed. Claims 27 and 29 have been rejected. Claims 39-41 have been objected to as being dependent on a rejected base claim.

Claims 27 and 29 have been rejected under 35 U.S.C § 102(a) as being anticipated by Chida *et al.*, *Blood* 93:1567-1578 (March 1, 1999). Applicant respectfully traverses and submits herewith a Declaration of Prior Invention under 37 C.F.R. § 1.131, signed by inventors Susanne Pippig and Gabor Veres, swearing behind the Chida *et al.* reference. This § 1.131 Declaration demonstrates that the claimed invention was conceived and reduced to practice prior to the March 1, 1999, publication date of Chida *et al.* Accordingly, Applicant respectfully submits that Chida *et al.* cannot properly be used as a § 102(a) reference, and requests that this rejection be withdrawn. Applicant likewise requests that the objection to claims 39-41 be withdrawn.

In view of the § 1.131 Declaration of Prior Invention and the above remarks, it is submitted that this application is now ready for allowance. Early notice to this effect is solicited. If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,


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